

## REMARKS

Applicants wish to thank the Examiner for reviewing the present patent application.

### I. Rejection Under 35 USC §112

The Examiner has rejected claims 18-23 under 35 USC § 112, paragraph 1. In the rejection, the Examiner alleges that the claims contain subject matter that is not described in the specification as originally filed. Particularly, the Examiner mentions that the specification does not provide support for the limitation that suggests the key means does not pierce or perforate the filter pack. In view of this, the Examiner believes that the first paragraph rejection is warranted.

Notwithstanding, the Examiner's apparent position to the contrary, it is the Applicants' position that claims 18-23 fully comply with 35 USC §112 for at least the following reasons.

As already made of record, and as set forth in the examples, the key means of the present invention does not pierce or perforate the filter pack. The filter pack is not pierced at all. As shown in Figures 1, 2, 3, 5 and 6, the filter pack glides over the key means 38. The key means does not pierce or perforate or put any type of hole within the filter pack. All of this is clearly supported by the figures. In fact, if the filter pack of the present invention was pierced or perforated (i.e., torn), beverage precursor would end up in the desired beverage. An important characteristic of the present invention is to have a convenient pack that can be placed within a beverage brewing apparatus such that beverage can be produced without contaminating the same with beverage precursor. Again, Applicants respectfully submit that all limitations of the claimed

invention as they relate to not piercing or perforating the filter pack are found, among other places, in the above-identified figures. In view of this, Applicants respectfully request that the rejection made under 35 USC §112, paragraph 1, be withdrawn and rendered moot.

## II. Rejection Under 35 USC § 102(e)

The Examiner has rejected claims 18, 21 and 23 under 35 USC § 102(e) as being anticipated by Lazaris et al., U.S. Patent No. 6,655,260, (hereinafter,, '260). In the rejection, the Examiner mentions, in summary, that the claims stand rejected for the reasons set forth in the last Office Action and that in Figure 6 of the '260 reference shows a beverage cartridge that is associated with a machine having a key means that does not perforate the filter pack. In view of this, the Examiner believes that the rejection made under 35 USC §102(e) is warranted.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record, the present invention is directed to a method for brewing a beverage wherein a filter pack is supplied to a brewing apparatus and the filter pack has a receiving means that is to be aligned with the key means of a brew funnel. The key means does not pierce or perforated the filter pack of the present invention. Contrary to the Examiner's belief, Figure 6 of the '260 reference shows a key means that includes and incorporates an exit probe 84 that protrudes through and pierces the cartridge (please see column 3, lines 25-30 and column 4, line 29). Therefore, all of

the important and critical limitations set forth in the presently claimed invention are not found in the '260 reference. In fact, if the teachings of the '260 reference were applied to the presently claimed invention, an incredibly inferior beverage product would be produced because the same would be contaminated with beverage precursor. In view of this, Applicants respectfully request that the rejection made under 35 USC §102(e) be withdrawn and rendered moot.

### III. Rejection Under 35 USC § 102(b)

The Examiner has rejected claims 18, 19, and 23 under 35 USC §102(b) as being anticipated by Gidge, U.S. Patent No. 3,445,237 (hereinafter, '237). In the rejection, the Examiner mentions, in summary, that the '237 reference discloses a method for brewing coffee with a filter pack. The Examiner further mentions that the filter pack is placed in a brew funnel of a brewing apparatus whereby the brew funnel has a key means which engages the filter pack and does not pierce or perforate the filter pack. In view of this, the Examiner believes that the novelty rejection is warranted.

Notwithstanding, the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record, the present invention is directed to a method for brewing a beverage comprising the steps of inserting a filter pack comprising a beverage precursor into a brew funnel of a beverage brewing apparatus and aligning a filter receiving means of the filter pack onto a key means within the beverage brew funnel and subjecting the filter pack to water wherein the key means does not pierce or

perforate the filter pack. Claim 18 is further defined by claim 19 which suggests that the beverage precursor can be coffee or tea. Claim 23 further defines claim 18 by suggesting that the key means is mounted on the brew funnel.

In contrast, the '237 reference is directed to a disposable cartridge containing a predetermined quantity of percolator ground coffee that is preformed, cylindrical in shape, and suitable to fit in a conventional perforated cup of a percolator. The disposable cartridge is suitable to fit, therefore, into a variety of percolator baskets. Extending through the cartridge of the '237 reference is a standard stem 23 of a typical coffee percolator. The invention of the '237 reference is a package for cylindrical shaped coffee percolators. There is no lock and key means described to prevent only a single brand of beverage precursor to be used in a particular machine. Therefore, not a single limitation of the presently claimed invention is even remotely described in the '237 reference. Therefore, Applicants respectfully request that the novelty rejection be withdrawn and rendered moot.

#### IV. Rejection Under 35 USC § 102(b)

The Examiner has rejected claims 18, 19 and 21-23 under 35 USC §102(b) as being anticipated by Fond et al., U.S. Patent No. 5,327,815 (hereinafter, '815). In the rejection, the Examiner mentions, in summary, that the '815 reference discloses a method for brewing coffee wherein a filter pack with coffee is placed in a brew funnel of a brewing apparatus further wherein the brew funnel device possesses projections which act as a key means. The Examiner continues by mentioning that the filter pack is not pierced or perforated by the key means. Thus, the Examiner believes that the novelty rejection is warranted.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record, the present invention is directed to a method for brewing a beverage comprising the steps of inserting a filter pack comprising a beverage precursor into a brew funnel of a beverage brewing apparatus and aligning a filter receiving means of the filter pack onto a key means within the brew funnel and subjecting the filter pack to water wherein the key means does not pierce or perforated the filter pack. The invention of claim 18 is further defined by the dependent claims, which claim, among other things, the type of beverage precursor, that the filter pack can rest on an elevation device within the brew funnel, that the key means can be mounted on the elevation device and that the key means can be mounted on the brew funnel.

In contrast, the '815 reference merely discloses cartridges that are suitable for extraction of beverage when they are fitted to the extraction head of a conventional espresso machine. The key to the teachings of the '815 reference is that the cartridges are suitable for use in conventional espresso machines. Once placed in a conventional espresso machine, projecting element 19 pierces the top of the cartridge. Such projecting elements are part of the means for inserting the cartridge within the espresso machine described in the '815 reference. There is no teaching whatsoever in the '815 reference that suggests a lock and key means so that only a single brand of beverage precursor may be used in a single machine. Moreover, no teaching whatsoever in the '815 reference suggests a key means that does not perforate the

cartridge. In view of this, it is clear that all the important and critical limitations set forth in the presently claimed invention are not shown in the '815 reference. Therefore, the novelty rejection should be withdrawn and rendered moot.

V. Rejection Under 35 USC §103

The Examiner has rejected claim 19 as being unpatentable over Lazaris et al., U.S. Patent No. 6,655,260 taken together with Schmed. The Examiner mentions that the rejection stands for the reasons made in the last Office Action.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record, the present invention is directed to a method for brewing a beverage comprising the steps of inserting a filter pack with beverage precursor into a beverage funnel of a beverage brewing apparatus and aligning the filter receiving means of the filter pack onto a key means within the brew funnel and subjecting the filter pack to water wherein the key means does not pierce or perforate the filter pack. The invention of claim 18 is further defined by claim 19 which mentions that the beverage precursor within the filter pack can be a coffee or tea precursor.

In contrast, and as already made of record, the '260 reference describes a beverage filter cartridge that is pierced by the key means and particularly by exit probe 84. Furthermore, and as already made of record, there are two Schmed references of record and it is not clear which Schmed reference the Examiner is referring to. (i.e.,

2001/0052294 A1 or 2002/0023543 A1, or both). Nevertheless, and as already made of record, both Schmed references describe a coffee machine for brewing coffee powder prepacked in a cartridge whereby a perforated member 8 perforates the bottom of the cartridge placed within the beverage machine. As set forth in the presently claimed invention, the filter pack of the present invention is not pierced or perforated. In view of this, all of the important and critical limitations set forth in the presently claimed invention are not described in the combination of references relied on by the Examiner. Therefore, a *prima facie* case of obviousness has not been established and the obviousness rejection should be withdrawn and rendered moot.

VI. Rejection Under 35 USC §103

The Examiner has rejected claim 19 as being unpatentable over Lazaris et al., U.S. Patent No. 6,655,260 (hereinafter, '260) or Gidge, U.S. Patent No. 3,445,237 (hereinafter, '237) or Fond et al., U.S. Patent No. 5,327,815 (hereinafter, '815) taken together with Cohen, U.S. Patent No. 5,339,596 (hereinafter, '596) and either one of Halliday et al., U.S. Patent No. 6,698,333 (hereinafter, '333) or Boyd et al., U.S. Application No. 2002/0048621 (hereinafter, '621). In the rejection, the Examiner mentions, in summary, that the rejection stands for the reason of the last Office Action.

The Examiner further mentions that since the '237 reference and the '815 reference were not applied, the rejection relying on the same is warranted in view of the amendments. Thus, the Examiner believes that the obviousness rejection is proper.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

Applicants respectfully submit that it is not clear how the '237 reference and the '815 reference are being applied in the instant obviousness rejection. Nevertheless, and as already made of record, the '237 reference does not in any way disclose a lock and key mechanism. In fact, it is directed to the use of a cartridge in any standard machine. The '815 reference has a lock and key means that requires perforation and such perforation is carried out by projecting elements 19 piercing through the cartridges described. As already made of record, the '260 reference requires cartridge perforation via exit probe 84. The '596 reference is directed to a toner cartridge recharging tool. The '333 reference is directed to a cartridge for the preparation of whipped beverages and the '621 reference is directed to an encoded coffee packet. The combination of references relied on by the Examiner does not, even remotely, suggest a method for brewing a beverage as set forth in the presently claimed invention.

Particularly, the combination of references relied on by the Examiner does not describe a method for brewing a beverage wherein a filter pack with a beverage precursor is inserted into a brew funnel of a beverage brewing apparatus such that a filter receiving means of the filter pack is aligned on a key means within a brew funnel where the filter is subjected to water and the key means does not pierce or perforate the filter pack. The invention of claim 18 is further defined by dependent claim 20 which suggests that the beverage brewing apparatus displays a brand and the filter pack is suitable to brew a brand of beverage that matches the brand displayed on the beverage brewing apparatus. As already made of record, the present invention is directed to a method for brewing a beverage such that the brand displayed on the brewing apparatus matches the brand within the filter packet. Only a specific filter packet is suitable for use within the brewing apparatus. In view of this, all the important and critical limitations set forth




in the presently claimed invention are not even remotely found in the combination of references relied on by the Examiner. Thus, a *prima facie* of obviousness has not been established and the obviousness rejection to claim 20 should be withdrawn and rendered moot.

Applicants respectfully submit that the present application is ready for appeal.

In the event the Examiner has any questions concerning the present patent application, he is kindly invited to contact the undersigned at his earliest convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Squillante, Jr.', written over a horizontal line.

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